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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/924,831      | 08/08/2001  | David Vozick         | 65252               | 2876             |

7590 08/05/2003

Norman H. Zivin  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Communication Re: Appeal**

Application No.

09/924,831

Applicant(s)

VOZICK ET AL.

Examiner

Vijay B. Chawan

Art Unit

2654

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☒ The appeal brief filed on 6/27/03 is NOT acceptable for the reason(s) indicated below:

- (a) ☒ the brief and/or ~~brief fee is untimely~~. See 37 CFR 1.192. *(see attached)*
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☐ other: \_\_\_\_\_

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

*Vijay B. Chawan*  
Vijay B. Chawan  
Primary Examiner  
Art Unit: 2654  
*8/4/03*

1. The appeal brief filed on 6/27/03 is defective because the three copies of the brief required under 37 CFR 1.192(a) have not been submitted.

Please refer to MPEP § 1206 for proper format for structure and submission of an Appeal Brief.

To avoid dismissal of the appeal, appellant must submit the necessary additional copies of the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

*Vijay Chawan* 8/4/03

**VIJAY CHAWAN  
PRIMARY EXAMINER**